IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5610 OF 2007

1. The Trustees of the Parsi Panchayat Funds & Properties & Ors. .. Petitioners.

V/s.

1. Unknown & Unnamed Heirs & LRs of late Marazban Nusserwanji Gandhi and others. .. Respondents.

Mr.P.S.Dani for the petitioners.

CORAM : S. A. BOBDE, J.

DATED : 10th OCTOBER, 2007.

P.C. :-

. The petitioners' application for recalling the witness has been rejected by the court below. Apparently, the court was, prima facie, of the view that by recalling the witness the petitioners are attempting to by-pass an admission made by their witness in evidence. Mr. Dani, the learned counsel for the petitioners points out that the statement recorded by the court to the effect that "I am aware that mother of Mrs. Doctor and Wife of late Marzban Gandhi were real sisters", was not intended to be stated by the witness at all and the statement should have been that "I am not

aware ......". The learned counsel points out the other statements in the evidence to the effect that in fact this witness is not aware of any relations. This is, however, matter of appreciation of evidence, which may be done at the final hearing of the suit by the court. Needless to say that such appreciation shall be done, uninfluenced by any observations made while rejecting the petitioners application. In this view of the matter, there is no reason to entertain this petition, which is hereby dismissed.

(S.A.BOBDE,J.)

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